

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	Case No. 1:09CR317
)	
Plaintiff,)	
)	JUDGE KATHLEEN O'MALLEY
v.)	
)	
STEVEN WAYNE PUMPER,)	
)	<u>PLEA AGREEMENT</u>
Defendant.)	

Pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure, and in consideration of the mutual promises set forth below, the United States Attorney's Office for the Northern District of Ohio (hereinafter "USAO"), by and through its undersigned attorneys, and the defendant, STEVEN WAYNE PUMPER (hereinafter "Defendant"), agree as follows:

**MAXIMUM PENALTIES AND OTHER
CONSEQUENCES OF PLEADING GUILTY**

1. **Waiver of Constitutional Trial Rights.** Defendant understands that Defendant has the right to plead not guilty and go to trial. At trial, Defendant would be presumed innocent, have the right to trial by jury or the Court, with the consent of the United States, the right to the assistance of counsel, the right to confront and cross-examine adverse witnesses and subpoena witnesses to testify for the defense, and the right against compelled self-incrimination. Defendant understands that Defendant has the right to an attorney at every stage of the proceeding and, if necessary, one will be appointed to represent Defendant. Defendant understands that if Defendant pleads guilty and that plea is accepted by the Court, there will not be a further trial of any kind, so that by pleading guilty Defendant waives the right to a trial.

2. **Waiver of Statutory Rights.** Defendant understands that Title 18, United States Code, Section 2518(9) requires that the subject/target of a wiretap receive a ten day notice before a wiretap communication, or evidence derived from such a communication, may be used in any trial, hearing or other proceeding in a federal or state court. Defendant further understands that Title 18, United States Code, Section 2518(8)(d) provides that the subject/target of a wiretap may petition the Court to inspect portions of the intercepted communications, applications and orders. Defendant acknowledges having been advised by his attorney that during the investigation of this case, his telephone conversations were intercepted pursuant to orders signed by a United States District Judge upon application of the USAO. Defendant has discussed the rights contained in 18 U.S.C. § 2518 with his attorney and the consequences of waiving such rights. Defendant knowingly and voluntarily waives any right to: (1) receive the ten day notice, (2) access the

recordings, orders and applications, and (3) file a motion to suppress the recordings made pursuant to those orders.

3. **Maximum Sentence.** The statutory maximum sentences for the charges in the Information to which Defendant agrees to plead guilty are as follows:

<u>Statute</u>	<u>Maximum sentence per count</u>
18 U.S.C. § 371	Imprisonment: 5 years Fine: \$250,000 Supervised Release: 3 years
18 U.S.C. § 666	Imprisonment: 10 years Fine: \$250,000 Supervised Release: 3 years
31 U.S.C. § 5324	Imprisonment: 5 years Fine: \$250,000 Supervised Release: 3 years
18 U.S.C. §§ 1341 and 1346	Imprisonment: 20 years Fine: \$250,000 Supervised Release: 3 years
18 U.S.C. § 1001	Imprisonment: 5 years Fine: \$250,000 Supervised Release: 3 years
18 U.S.C. § 1503	Imprisonment: 10 years Fine: \$250,000 Supervised Release: 3 years

4. **Alternative Maximum Fine.** The maximum fine that the Court may impose is the greater of the statutory maximum stated above or twice the gross pecuniary loss or gain from the offense of conviction.

5. **Sentencing Guidelines.** Defendant understands that federal sentencing law requires the Court to impose a sentence which is sufficient, but not greater than necessary, to comply with the purposes of 18 U.S.C. § 3553(a)(2) and that the Court must consider the advisory U.S. Sentencing Guidelines in effect at the time of sentencing in determining the sentence.

6. **Special Assessment.** Defendant will be required to pay a mandatory special assessment of \$100 per count, due immediately upon sentencing.

7. **Costs.** The Court may order Defendant to pay the costs of prosecution and sentence, including but not limited to imprisonment, community confinement, home detention, probation, and supervised release.

8. **Restitution.** The Court may order Defendant to pay restitution as a condition of the sentence, probation, and/or supervised release.

9. **Violation of Probation/Supervised Release.** If Defendant violates any term or condition of probation or supervised release, such violation could result in a period of incarceration or other additional penalty as imposed by the Court. In some circumstances, the combined term of imprisonment under the initial sentence and additional period of incarceration could exceed the maximum statutory term.

ELEMENTS OF THE OFFENSES

10. The elements of the offenses to which Defendant will plead guilty are:

18 U.S.C. § 371 (Conspiracy)

1. Defendant agreed with at least one other person to commit an offense against the United States,

2. One of the conspirators engaged in at least one overt act furthering the conspiracy's objective,

3. Defendant knew the essential objective of the conspiracy, and
4. Defendant knowingly and voluntarily participated.

18 U.S.C. § 666(a)(2) (Bribery Concerning Programs Receiving Federal Funds)

1. Defendant gave, offered or agreed to give anything of value to
2. An agent of an organization or a State or local government or any agency thereof that received federal benefits in excess of \$10,000 in a one-year period,
3. Defendant acted corruptly with the intent to influence or reward the agent in connection with the business, transaction or series of transactions of the organization, government or agency involving anything of value of \$5,000 or more.

18 U.S.C. § 1519 (Destruction, Alteration or Falsification of Records in a Federal Investigation)

1. Defendant knowingly altered, destroyed, concealed, covered up or falsified,
2. Any records document or tangible object, and
3. With the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States.

18 U.S.C. §§ 1341 and 1346 (Mail Fraud and Honest Services Mail Fraud)

1. Defendant knowingly devised or participated in a scheme to fraudulently deprive another of money or property or the intangible right of honest services,
2. Defendant did so willfully with an intent to defraud, and
3. Defendant used the United States Postal Service by mailing or by causing to be mailed some matter or thing for the purpose of executing the scheme to defraud.

31 U.S.C. § 5324 (Structuring Transactions to Evade Reporting Requirement)

1. Defendant, for the purpose of evading the reporting requirements of federal law under which financial institutions must report cash transactions of over \$10,000,
2. Structured or assisted in structuring, and

3. Any transaction with one or more domestic financial institutions.

18 U.S.C. § 1001 (Making False Statements in a Matter within the Jurisdiction of the Executive Branch)

1. In any matter within the jurisdiction of the executive branch of the Government of the United States,
2. Defendant knowingly and willfully
3. Made a materially false, fictitious or fraudulent statement.

18 U.S.C. § 1503 (Obstruction of Justice)

1. Defendant corruptly endeavored,
2. To influence, obstruct or impede,
3. The due administration of justice.

AGREEMENTS AND STIPULATIONS OF THE PARTIES

GUILTY PLEA / OTHER CHARGES

11. **Agreement to Plead Guilty.** Defendant agrees to plead guilty to Counts 1 through 9 of the Information in this case.

12. **Agreement Not to Bring Certain Other Charges.** The USAO will not bring any other criminal charges against Defendant with respect to conduct charged in the Information based on facts currently within the knowledge of the USAO and which were disclosed by Defendant to the USAO. In addition, the USAO will not bring any charges against DAS Construction Company, its employees or officers (other than Defendant), with respect to conduct charged in the Information based on facts currently within the knowledge of the USAO and which were disclosed by Defendant to the USAO.

FACTUAL BASIS AND RELEVANT CONDUCT

13. The parties stipulate to the following facts, which satisfy all of the elements of the offenses to which Defendant agrees to plead guilty and constitute relevant conduct under the Sentencing Guidelines: See Attachment A, which is attached hereto and fully incorporated herein.

WAIVER OF APPEAL AND POST-CONVICTION ATTACK

14. Defendant acknowledges having been advised by counsel of Defendant's rights, in limited circumstances, to appeal the conviction or sentence in this case, including the appeal right conferred by 18 U.S.C. § 3742, and to challenge the conviction or sentence collaterally through a post-conviction proceeding, including a proceeding under 28 U.S.C. § 2255. The Defendant expressly waives those rights, except as reserved below. Defendant reserves the right to appeal: (a) any punishment in excess of the statutory maximum and (b) any sentence to the extent it exceeds the maximum of the sentencing range determined under the advisory Sentencing Guidelines in accordance with the sentencing stipulations and computations in this agreement, using the Criminal History Category found applicable by the Court. Nothing in this paragraph shall act as a bar to the Defendant perfecting any legal remedies Defendant may otherwise have on appeal or collateral attack respecting claims of ineffective assistance of counsel or prosecutorial misconduct.

RESTITUTION

15. **Restitution.** Defendant agrees to make full restitution as ordered by the Court pursuant to Title 18, Section 3663A, United States Code, payable immediately on such terms and conditions as the Court may impose, for the losses caused by Defendant's relevant conduct in this

case, as defined under Guideline § 1B1.3. Defendant agrees not to seek the discharge of any restitution obligation, in whole or in part, in any present or future bankruptcy proceeding. Defendant understands that pursuant to 18 U.S.C. § 3664, the Court shall order the United States Probation Office to prepare a report containing information sufficient for the Court to fashion a restitution order. In preparing that report, the U.S. Probation Office may solicit the views of the United States Attorney's Office, Defendant, and the victims. Defendant understands that any victim has the right to present its position on restitution directly to the Court at the time of sentencing. The parties agree to recommend to the U.S. Probation Office that the Court order restitution in the following amounts, joint and several with any co-defendants, which represents the loss calculated as of the filing of the Information:

(1) Cuyahoga County c/o Cuyahoga County Administrator, 1219 Ontario Street, Fourth Floor, Cleveland, Ohio 44113, \$186,000,

(2) Suburban School Board described in Count 7, \$117,000,

(3) Phillips Medical Systems¹, c/o Steve Miller, Esq., Reed Smith LLP, 10 South Wacker Drive, Chicago IL 60606-7507, \$491,000 to \$1,700,000, and

(4) Parma City School District, 5311 Longwood Avenue, Parma, Ohio 44134, \$15,000.

¹The parties agree that Defendant is free to argue that the restitution amount should be \$491,000 and that the USAO is free to argue that the restitution amount should be \$1,700,000. As stated in paragraph 18, Defendant agrees that the loss amount is \$1,700,000 for purposes of calculating the advisory sentencing Guidelines. However, under paragraph 16, Defendant may argue for a two-level variance on this issue, and the USAO is free to argue against it.

SENTENCING STIPULATIONS AND AGREEMENTS

16. **Recommendation to Use the Sentencing Guidelines Computation.** The parties agree to recommend that the Court impose a sentence at the range determined pursuant to the advisory Sentencing Guidelines in accordance with the computations and stipulations set forth below. The USAO will not request a sentence higher than the advisory Sentencing Guidelines range and the Defendant will not request a sentence lower than the advisory Sentencing Guidelines range. However, Defendant may argue that a two-level variance is appropriate with respect to the loss on Count 9 for the reasons that 1) the Court should consider the fact that the base offense level of §2C1.1 is the not the proper starting point for the commercial bribery scheme described in Count 9 of the information and/or 2) the value of the benefit conferred in Count 9 (\$1,700,000 in gross profits) is disproportional to the amount of the bribes and/or 3) the actual loss suffered by the victim in Count 9 is \$491,000. The USAO is free to argue against any such requested variance. Otherwise, the parties agree that neither party will suggest in any way that a departure or a variance is appropriate. Nothing in this Agreement precludes or in any way limits the right of the Defendant or the USAO to argue that the statutory factors of 18 U.S.C. § 3553(a) merit a lower sentence within the stipulated advisory Guideline calculation range recommended by both parties as set forth in this Agreement.

17. Defendant understands and agrees that the USAO reserves, at the time of sentencing, the right of allocution, that is the right to describe fully, both orally and in writing, to the court the nature, seriousness and impact of the Defendant's misconduct related to the charges against Defendant or to any factor lawfully pertinent to the sentence in this case. Defendant

further understands and agrees that in exercising this right, the USAO may solicit and make known the views of the law enforcement agencies which investigated this matter.

18. **Stipulated Guideline Computation.** The parties agree that the following calculation, using the advisory Sentencing Guidelines Manual effective November 1, 2008, represents the correct computation of the applicable offense level in this case. The parties also agree that, other than the variance discussed in paragraph 16 above, the following sentencing guidelines calculation is sufficient, but not greater than necessary, to comply with the purposes of 18 U.S.C. Section 3553(a). The parties agree that no other advisory Sentencing Guideline adjustments apply.

Structuring Count:

Base Offense Level	6	§ 2S1.3(a)(2)
Value of Funds (\$123,000)	10	§ 2B1.1(b)(1)(F) § 2S1.3(a)(2)
Subtotal Before Acceptance of Responsibility	16	

False Statement and Obstruction Counts:

Base Offense Level	22	§ 2J1.2(c) § 2X3.1(a)(1) ²
--------------------	----	--

² U.S.S.G. § 2J1.2(c) cross references § 2X3.1(a)(1) which states the offense level is 6 levels lower than the underlying offense. Since the obstruction was directed toward bribery schemes charged in Count 1 involving losses of only \$186,000 (calculated based on facts within the knowledge of the USAO as of the date of Defendant began cooperating), the underlying offense level is

Base Offense Level	12	§ 2C1.1(a)(2)
More than one Bribe	2	§ 2C1.1(b)(1)
High Level Official	4	§ 2C1.1(b)(3)
Loss (\$186,000)	10	§ 2B1.1(b)(1)(F)
Total	28	

All Other Counts:

Base Offense Level	12	§ 2C1.1(a)
Offense Involved More Than One Bribe	2	§ 2C1.1(b)(1)
Value of the payment, the benefit received or the loss from the offense: \$2,024,600 ³	16	§ 2C1.1(b)(2) & § 2B1.1(b)(1)(I)
Offense Involved Elected Public Official or Any Public Official in A High-Level Decision Making or Sensitive Position	4	§ 2C1.1(b)(3)
Obstruction	2	§ 3C1.1
Subtotal Before Acceptance of Responsibility	36	

19. **Application of Grouping Rules.** The offense level for the structuring count is 20 levels below that of the offense level for the other counts. The offense level for the obstruction counts is 14 levels below that of the offense level for the other counts. Thus, the structuring and obstruction counts will have no impact on the sentencing guidelines calculation, and the total offense level is 36.

³The loss is calculated as follows:

Count	Loss	Comments
1	\$186,000	Value of benefit conferred (although later investigation revealed the benefit conferred is greater, this figure represents the benefit known to the USAO at the time Defendant began cooperating)
3	\$6,600	Value of the bribes
6	\$15,000	Value of benefit conferred (although later investigation revealed the benefit conferred is greater, this figure represents the benefit known to the USAO at the time Defendant began cooperating)
7	\$117,000	Value of benefit conferred
2,4,5,8	NA	
9	\$1,700,000	Defendant may argue for a variance. See paragraph 16 above.
Total	\$2,024,600	

20. **Acceptance of Responsibility.** The USAO has no reason to believe at this time that Defendant has not clearly and affirmatively accepted personal responsibility for Defendant's criminal conduct. Defendant understands, however, that the Court will determine acceptance of responsibility based on Defendant's overall conduct as of the date of sentencing.

21. **Criminal History Category.** The parties have no agreement as to the Criminal History Category applicable in this case. Defendant understands that the Criminal History Category will be determined by the Court after the completion of a Pre-Sentence Investigation by the U.S. Probation Office.

COOPERATION

22. Defendant agrees to cooperate fully with the United States of America and any other state or local government in investigations and prosecutions, as and when requested by the USAO. Such cooperation shall include providing all information, attending all interviews, testifying before all tribunals, providing all documents and records and providing all other forms of cooperation requested by government agents and prosecutors. Such cooperation also includes the obligation to provide truthful and complete information and the obligation not to commit any additional crimes.

23. Defendant agrees to cooperate with IRS agents concerning the assessment and payment of any additional income taxes owing by Defendant, including interest and penalties, by providing all pertinent information and documents requested by the agents in accordance with the rules and procedures established by the Internal Revenue Code and regulations promulgated thereunder. Defendant agrees to provide to civil components of the IRS, as may be requested (a) all documents he provided to the IRS and/or the grand jury in the criminal investigation of this

matter and (b) all documents and summary schedules provided to him and/or his attorney by the IRS and/or USAO as discovery in connection with this case, including informal pre-charge discovery. Defendant agrees that IRS criminal investigators and/or USAO may provide copies of any such documents in their possession or custody to IRS civil components on his behalf. Defendant agrees that this agreement, or any judgment, order, release, or satisfaction issued in connection with this agreement, will not satisfy, settle, or compromise Defendant's obligation to pay the balance of any remaining civil liabilities, including tax, additional tax, additions to tax, interest, and penalties, owed to the IRS for the time period(s) covered by this agreement or any other time period.

24. Defendant agrees to work with his domestic relations attorney to review all financial information he provided or caused others to provide in the course of his divorce proceedings to insure that such financial information was accurate. If there are any inaccuracies, he will immediately notify all parties to the divorce proceedings and will provide corrected information. He agrees to provide complete, true and accurate financial information in all future divorce proceedings.

25. Defendant understands that in the event he, during any criminal proceedings, commits perjury, suborns perjury, or obstructs justice, nothing in this agreement precludes the United States of America or any other law enforcement authority from prosecuting him fully for those crimes or any other crimes of which he may be guilty and from using any of his sworn or unsworn statements against him. Defendant understands that this plea agreement is explicitly dependent upon his providing completely truthful testimony in any trial or other proceeding, whether called as a witness by the USAO, the defense or the Court.

26. Defendant understands that, in the event this plea agreement is withdrawn or otherwise vacated, the USAO may use the information from his sworn or unsworn statements against him and to impeach him or any witness on his behalf.

27. Defendant further acknowledges that the decision to make a motion under U.S.S.G. Section 5K1.1 under this agreement rests solely and exclusively within the discretion of the United States Attorney for the Northern District of Ohio.

28. If the United States Attorney for the Northern District of Ohio determines that Defendant has fully cooperated with the government, as set forth herein, the USAO, in consideration for such substantial assistance, will move the Court pursuant to U.S.S.G. Section 5K1.1 for a downward departure of up to three (3) levels. Defendant agrees that should the USAO make a motion under Section 5K1.1, that he will not seek or suggest in any way that the Court should apply a downward departure greater than three (3) levels. The parties understand and agree that the final decision as to whether to grant any government motion for a downward departure under Section 5K1.1 and the extent of any such a departure rests with the Court.

29. Defendant understands that in the event he does not fully cooperate or otherwise acts in a fashion inconsistent with the acceptance of responsibility for his criminal conduct, and/or engages in or commits any other criminal or obstructive act during the period of his cooperation, the USAO is released from all its obligations under this agreement, including making a motion under U.S.S.G. Section 5K1.1, and Defendant has no right to withdraw his guilty plea.

30. Defendant agrees to make himself available at all meetings with the government and to respond truthfully and completely to any and all questions put to him, whether in interviews, before a grand jury, or at any trial or other proceedings.

31. Defendant agrees not to accept remuneration or compensation of any sort, directly or indirectly, for the dissemination through books, articles, speeches, interviews, or any other means, of information regarding his work at DAS Construction Company, Green-Source or Anatomy Nightclub, the transactions alleged in the above-captioned Information, or the investigation or prosecution of any civil or criminal cases against him.

32. Defendant agrees not to oppose any request of the United States that his sentencing be postponed until Defendant's cooperation is completed. Defendant knowingly waives any rights he may have under the Speedy Trial Act, 18 U.S.C. § 3161 et seq., occasioned by such delay. Defendant further understands that, in the event he is sentenced prior to the completion of his cooperation, he agrees that his continued compliance with the condition of cooperation survives the imposition of sentence and that any failure to cooperate is a violation of this agreement which will entitle the government to seek any remedy allowed under this agreement and pursue any charges dismissed or not filed as a result of this agreement as set forth above. The United States agrees to consider any request of Defendant to schedule his sentencing hearing prior to completing his cooperation.

OTHER PROVISIONS

33. **Financial Statement.** Defendant agrees to submit to the USAO, prior to the date of sentencing, a complete and accurate financial statement on government form OBD-500.

34. **Agreement Silent as to Matters Not Expressly Addressed.** This agreement is silent as to all aspects of the determination of sentence not expressly addressed herein, and the parties are free to advise the Court of facts and to make recommendations to the Court with respect to all aspects of sentencing not agreed to herein.

35. **Sentencing Recommendations Not Binding on the Court.** The parties understand that the recommendations of the parties will not be binding upon the Court, that the Court alone will decide the applicable sentencing range under the advisory Sentencing Guidelines, whether there is any basis to depart from that range or impose a sentence outside of the Guidelines, and what sentence to impose. Defendant further understands that once the Court has accepted Defendant's guilty plea, Defendant will not have the right to withdraw such a plea if the Court does not accept any sentencing recommendations made on Defendant's behalf or if Defendant is otherwise dissatisfied with the sentence.

36. **Consequences of Breaching the Plea Agreement.** Defendant understands that if Defendant breaches any promise in this agreement or if Defendant's guilty plea or conviction in this case are at any time rejected, vacated, or set aside, the USAO will be released from all of its obligations under this agreement and may institute or maintain any charges and make any recommendations with respect to sentencing that would otherwise be prohibited under the terms of the agreement. Defendant understands, however, that a breach of the agreement by Defendant will not entitle Defendant to withdraw, vacate, or set aside Defendant's guilty plea or conviction.

37. **Waiver of Statute of Limitations.** Defendant waives all defenses based on the statute of limitations with respect to any prosecution that is not already time-barred by the applicable statute of limitation on the date of Defendant's signing of this agreement and that is

commenced within 90 days after any of the following events: (1) Defendant fails to plead guilty at the plea proceeding or the Court refuses to accept a guilty plea by Defendant pursuant to this agreement, (2) the Court permits Defendant to withdraw a guilty plea entered pursuant to this agreement or otherwise vacates such a guilty plea, or (3) the convictions following Defendant's guilty plea pursuant to this agreement are vacated, overturned, or abrogated for any reason.

Defendant understands the waiver of the statute of limitations is effective immediately upon Defendant's signing of this agreement and is not conditioned upon the approval of this agreement by the Court.

38. **Agreement not Binding on other Jurisdictions and Agencies.** Defendant understands that this plea agreement is binding only on the United States Attorney's Office for the Northern District of Ohio. It does not bind any other United States Attorney, any other federal agency, or any state or local government.

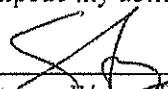
39. **Defendant is Satisfied with Assistance of Counsel.** Defendant makes the following statements: I acknowledge receiving the assistance of counsel from my attorneys concerning this plea agreement. I have fully discussed with my attorneys all of my Constitutional and statutory trial and appeal rights, the nature of the charges, the elements of the offenses the United States would have to prove at trial, the evidence the United States would present at such trial, the Sentencing Guidelines, and the potential consequences of pleading guilty in this case. I have had sufficient time and opportunity to discuss all aspects of the case in detail with my attorneys and have told my attorneys everything I know about the charges, any defense that I may have to those charges, and all personal and financial circumstances in possible mitigation of sentence. My attorneys have done everything I have asked my attorneys to do and I am satisfied

with the legal services and advice provided to me by my attorneys and believe that my attorneys have given me competent and effective representation.

40. **Agreement Is Complete and Voluntarily Entered.** Defendant and Defendant's undersigned attorneys state that this agreement constitutes the entire agreement between Defendant and the USAO and that no other promises or inducements have been made, directly or indirectly, by any agent or representative of the United States government concerning any plea to be entered in this case. In particular, no promises or agreements have been made with respect to any actual or prospective civil or administrative proceedings or actions involving Defendant, except as expressly stated herein. In addition, Defendant states that no person has, directly or indirectly, threatened or coerced Defendant to do or refrain from doing anything in connection with any aspect of this case, including entering a plea of guilty.

SIGNATURES

Defendant: I have read this entire plea agreement and have discussed it with my attorneys. I have initialed each page of the agreement to signify that I have read, understood, and approved the provisions on that page. I am entering this agreement voluntarily and of my own free will. No threats have been made to me, nor am I under the influence of anything that could impede my ability to understand this agreement.

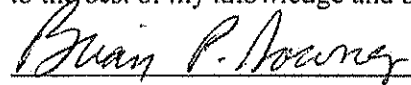


Steven Wayne Pumper

7/17/09

Date

Defense Counsel: I have read this plea agreement and concur in Defendant pleading in accordance with terms of the agreement. I have explained this plea agreement to Defendant, and to the best of my knowledge and belief, Defendant understands the agreement.




Niki Z. Schwartz, Esq.
Brian P. Downey, Esq.
Counsel for Steven Wayne Pumper

7/17/09

Date

United States Attorney's Office: I accept and agree to this plea agreement on behalf of the United States Attorney for the Northern District of Ohio.



Antoinette T. Bacon (DC: 474696)
Ann C. Rowland (OH: 0015156)
Assistant U. S. Attorneys
United States Court House
801 West Superior Avenue, Suite 400
Cleveland, Ohio 44113-1852
(216) 622-3966
(216) 622-3847
(216) 522-7358 (facsimile)
E-mail: Antoinette.T.Bacon@usdoj.gov
E-mail: Ann.Rowland@usdoj.gov

7/17/09

Date

APPROVED:

UNITED STATES DISTRICT JUDGE

Date

Attachment A

Steven Wayne Pumper

At all times material to the Information:

Defendant STEVEN WAYNE PUMPER was the Chief Executive Officer of DAS Construction ("DAS"), was an officer of DAS Development, Inc., and was a partner in multiple development projects in Northeast Ohio.

DAS was a commercial construction company located in Garfield Heights, Ohio with experience as a general contractor, construction manager, and design builder. DAS Development Inc. was related to DAS.

Green-Source Products, LLC ("Green-Source") was a manufacturer of green building products located in Cleveland, Ohio. PUMPER was a de facto executive of Green-Source.

Cuyahoga County ("the County") was a government agency, as that term is defined in Title 18, United States Code, Section 666(d)(2), that received benefits in excess of \$10,000 during every calendar year material to this Information under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance or other form of Federal assistance.

The Board of Cuyahoga County Commissioners ("County Commissioners") was the central governmental body of the County. The Board of Cuyahoga County Commissioners consisted of three co-equal members who were elected at large for four-year terms. Each year, the County Commissioners elected a president, who served on the Board of Revision and the County Records Commission. The County Commissioners' powers included budgeting, levying taxes, issuing bonds, letting contracts for public works services, monitoring expenditures, administering purchases and appointing key personnel.

Public Official 1 ("PO1") was an elected County official whose responsibilities included budgeting, levying taxes, issuing bonds, letting contracts for public works services, monitoring County expenditures, administering all purchases for County use, and approving funding to build and maintain certain roads. In addition, PO1 had the authority to influence personnel decisions within the County, including hiring, approving raises or promotions, terminating employment, and establishing job duties.

Public Official 2 ("PO2") was an elected County official with overall responsibility for all County funds. He had the power to influence contracts and expenditures within the Office he was elected to operate. He also had the authority to influence personnel decisions within the County, including hiring, approving raises or promotions, terminating employment, and establishing job duties.

Because of their high ranking positions within Cuyahoga County and their political longevity, PO1 and PO2 exerted significant influence over other public officials in Cuyahoga County. They supported each other and spoke on behalf of one another on County and political matters.

Public Official 4 ("PO4") was an elected judge of the Cuyahoga County Court of Common Pleas. The County Commissioners controlled the budget of the Cuyahoga County Court of Common Pleas.

John Kevin Kelley ("Kelley") was employed in various positions within County government from approximately 1998 through June 2009. In 2004, Kelley became the Geographic Information Systems ("GIS") project manager. His salary was funded in equal parts by the Cuyahoga County Engineer's Office ("Engineer's Office"), the Cuyahoga County Auditor's Office ("Auditor's Office"), and the County Commissioners. From January 2000 until

March 2009, Kelley served on the Parma City School District Board of Education ("School Board"), an elected position. In both of those roles, Kelley had the power to influence public policy, contracts and expenditures. In addition to his public employment, in or about May 2003, Kelley created a consulting business, J. Kevin Kelley Consulting, LLC.

Public Employee 4 ("PE4") was a County employee who was a close friend and confidante of PO1.

PUMPER and DAS participated in renovating the Parkview Apartments (the former Allerton Hotel) located in downtown Cleveland, Ohio, for low income housing. PUMPER also had a financial interest in the project which was financed in part by the United States Department of Housing and Urban Development, County loans and other means.

Business 5 was a privately owned development firm. Business Executive or Employee 7 ("BE7") was an officer or employee of Business 5.

Business Executive or Employee 8 ("BE8") had an interest in real estate he wished to sell to the County.

Primary Related to Count 1

Beginning in or about 2002 and continuing until on or about July 28, 2008, in the Northern District of Ohio, Eastern Division and elsewhere, Defendant STEVEN WAYNE PUMPER and others did knowingly and willfully conspire, combine, confederate and agree to commit an offense against the United States; that is, bribery concerning programs receiving federal funds, in violation of Title 18, United States Code, Sections 666(a)(1)(B) and (a)(2).

OBJECT OF THE CONSPIRACY

It was the object of the conspiracy that PO1, an agent of Cuyahoga County, which received benefits in excess of \$10,000 during every calendar year material to this Information under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance or other form of Federal assistance, corruptly solicited, accepted and agreed to accept things of value from PUMPER, and PUMPER corruptly gave and offered things of value to PO1, all acting with the intent that PO1 be influenced and rewarded in connection with any business, transaction and series of transactions of the County involving any thing of value of \$5,000 or more.

MANNER AND MEANS

It was part of the conspiracy that:

PO1 Residence

In or about 2002, PO1 requested that PUMPER work on an irrigation system at PO1's residence. PUMPER did not provide an estimate, and PO1 and PUMPER did not discuss payment terms. PUMPER arranged for an irrigation contractor to do the irrigation work, valued at approximately \$1,793, and caused DAS to pay for the work. DAS did not bill PO1 for the work, and PO1 did not pay for the work.

In or about 2004 and 2005, PO1 requested that PUMPER construct a large roof area over a patio and a bathhouse at PO1's residence. PUMPER did not provide an estimate, and PO1 and PUMPER did not discuss payment terms. PUMPER arranged for DAS to perform the work, valued at approximately \$31,977 (above and beyond amounts PO1 paid directly to DAS suppliers and subcontractors). DAS did not bill PO1 for the work, and PO1 did not pay for the work during the years it was performed.

In or about 2007, PO1 requested that PUMPER construct a grill area, barbecue shelter, patio floor and roof at PO1's residence. PUMPER did not provide an estimate, and PO1 and PUMPER did not discuss payment terms. PUMPER caused DAS to perform the work, valued at approximately \$27,225 (above and beyond amounts PO1 paid directly to DAS suppliers and subcontractors). DAS did not bill PO1 for the work, and PO1 did not pay for the work the year it was performed.

All of the work described above was substantially completed in the years indicated above.

DAS usually billed customers every 30 days for ongoing projects. PUMPER did not bill PO1 because of the favors (described in Count 1 of the Information) PO1 was doing for PUMPER and in anticipation of favors PO1 could perform for PUMPER in the future. From time to time, PO1 asked for invoices; however, PUMPER did not expect PO1 would pay full value for the work.

PUMPER intended to bill PO1 eventually at a substantial discount, but was concerned that an invoice would negatively affect PO1's willingness to do favors for PUMPER.

On or about May 23, 2008, after PO1 learned that PUMPER was under investigation for bribing a City of Cleveland building inspector, PO1 caused to be written a small check on his personal bank account payable to DAS.

Courthouse Square

On or about November 16, 2004, PO1 agreed to assist PUMPER in obtaining for DAS a County construction management contract valued at approximately \$24,842.

Parkview/Allerton

From on or about October 23, 2006 to in or about March 2008, PO1 used his influence to assist PUMPER in obtaining a County loan and an extension on the loan for Parkview/Allerton.

Although the County granted the extension in March 2008, the extension was not used because other funding was obtained.

BE8 Real Estate

Sometime in 2006, the exact date unknown to the United States Attorney, BE8 asked PUMPER to assist BE8 on problems that were delaying BE8's sale of real estate to the County. PUMPER asked PO1 to perform official acts, and PO1 agreed to perform official acts, to facilitate the sale.

Cash, Meals and Entertainment

From in or about early 2007 to on or about May 23, 2008, PUMPER gave PO1 approximately \$33,000 in cash in installments of approximately \$2,000 to \$5,000 per installment, the installments interrupted in late May 2008 when PUMPER and PO1 became aware that PUMPER was under investigation for bribery.

On numerous occasions during times material to Count 1 of the Information, PUMPER paid and caused DAS to pay for entertainment, dinners and drinks for PO1 and his friends and family.

Green-Source Commissions

From approximately December 2007 or January 2008, through in or about March or April 2008, PO1, PUMPER and PE4 agreed that PO1 would use his official influence to assist Green-Source in obtaining public contracts and subcontracts, and that PO1 would be compensated for his efforts.

Beginning in approximately December 2007, PUMPER, PO1 and PE4 discussed Green-Source employing PE4 to solicit work for Green-Source. They contemplated that PE4 would use PO1's influence over private contractors and various public officials at the County and municipal

level to obtain contracts and subcontracts for Green-Source. Under the plan, PE4 would receive a base salary plus commissions from Green-Source and would give PO1 a percentage of those commissions. It was further contemplated between PUMPER and PE4 that when PO1 retired from his County position, Green-Source would retain PO1 as a consultant.

In or about March or April 2008, a Green-Source executive vetoed the PUMPER plan to hire PE4 at Green-Source.

County Loans for Green-Source Building

From on or about December 18, 2007 through on or about March 3, 2008, PO1 used his official influence to support an application for a \$200,000 Brownfield loan and an \$800,000 Economic Redevelopment Loan for the Green-Source building on Ivanhoe Road in Cleveland, Ohio.

PO1's Recommendation of DAS to Business 5

On or about January 4, 2008, at the request of PUMPER, PO1 recommended to BE7 that Business 5 use DAS as a preferred contractor on two downtown Cleveland development projects, both of which projects involved the County. PUMPER sought PO1's intervention because he believed that BE7, with applications pending before the County Commissioners for over \$1,000,000 in County Commercial Redevelopment Funds, would be susceptible to pressure from PO1.

PUMPER Divorce

From on or about February 4, 2008 through on or about February 6, 2008, PO1 used his influence to assist PUMPER with a County agency on a matter pertaining to PUMPER'S divorce.

DAS Lawsuit

In or about April and May 2008, PO1 used his influence with PO4 to cause PO4 to expedite scheduling a settlement conference in a case in which DAS was a party.

OVERT ACTS

In furtherance of the conspiracy, and to effect the objects thereof, PUMPER, PO1 and others committed the following overt acts in the Northern District of Ohio:

DAS Work on PO1 Residence

On or about December 20, 2002, PUMPER caused DAS to pay the irrigation contractor approximately \$1,793 for the work the contractor performed at the PO1 residence.

On or about October 7, 2004, PUMPER caused DAS to purchase supplies for use at the PO1 residence.

On or about November 17, 2005, PUMPER caused DAS to purchase supplies for use at the PO1 residence.

Courthouse Square

On or about November 16, 2004, PO1 performed an official act leading to the County Commissioners approving a contract with DAS in the amount of \$24,842 for consultant engineering services for the Courthouse Square Renovation Project for the Department of Central Services.

Parkview/Allerton Loan

On or about October 23, 2006, PO1 performed an official act leading to the County Commissioners authorizing the County Department of Development to issue two loans, each in the amount not-to-exceed \$1,000,000 for the Parkview Apartments Project.

On or about February 25, 2008, PUMPER discussed Parkview's financial problems with a businessperson who also had a financial interest in the project and said, "Well, we can buy some time, I guess, with PO1."

On or about February 25, 2008, PUMPER told PO1 that he might want a one-year extension on the \$1 million Parkview loan from the County.

On or about March 3, 2008 at approximately 4:26 p.m., PO1 had a conversation with PUMPER in which PO1 asked PUMPER if anyone had called PUMPER "to set up a meeting to get that Parkview extension?" PUMPER responded in the negative. PO1 said, "[A County employee] told me he doesn't believe it should be a problem getting the extension."

On or about March 7, 2008, a County employee representing PO1's office called PUMPER suggesting a meeting for PUMPER and another Parkview representative to discuss Parkview/Allerton with certain County officials on Monday, March 10, 2008. The employee also indicated PO1 was wondering if there were two separate projects.

On or about March 10, 2008, County employees held a meeting with representatives of Allerton/Parkview.

On or about March 26, 2008, PO1 told PUMPER that he saw the County had given a three-year extension on the loan. PUMPER thanked PO1 who responded that it "worked out good."

BE8 Real Estate

In or about Spring 2007, PO1 performed an official act leading to the County's purchase of BE8's real estate.

Tickets and Meals

On or about September 1, 2007, PUMPER caused DAS Development to distribute to PO1 tickets to a Cleveland Indians game.

On or about December 22, 2007, PUMPER caused DAS Development to distribute to PO1 four tickets for the December 20, 2007 Cleveland Cavaliers game, the tickets valued at approximately \$780 in total.

On or about February 8, 2008, PUMPER used his DAS credit card to pay a \$195.64 restaurant bill for PO1, PE4 and others.

On or about February 9, 2008, PE4 and PO1 had a conversation in which PO1 asked, "Hey, how much was that bill yesterday?" PE4 replied, "I was curious, I don't know." PO1 replied, "I don't know. I didn't look. PUMPER took the bill." PE4 estimated that the bill was around \$150. PO1 replied, "That's what I thought."

On or about March 20, 2007, PUMPER caused DAS Development to distribute to PO1 eight tickets for the March 25, 2007 Cleveland Cavaliers game, the tickets valued at approximately \$2,400 in total.

Green-Source Commissions

On or about December 15, 2007, PE4 stated to PUMPER that PE4's employment at Green-Source would be great for "everybody."

On or about January 18, 2008, PE4 drove PO1 to Green-Source for a walk-through so that PO1 would have the information he needed about Green-Source to recommend its products for public contracts.

On or about January 19, 2008, PE4 and PUMPER had a conversation in which PE4 told PUMPER that PO1 was "cool" with PE4 working at Green-Source. PUMPER told PE4 that PO1

should do what he could to help PE4 while PO1 was "still in power." PE4 responded that PO1 "will be rewarded with it."

In or about early March 2008, PO1 arranged for County officials to meet with PUMPER and PE4 so that PUMPER could promote Green-Source products.

On or about March 12, 2008, PUMPER and PO1 met with County officials at Delmonico's Restaurant to promote Green-Source products for the Juvenile Justice Center ("JJC").

On or about March 12, 2008, PE4 and PUMPER had a conversation in which PUMPER told PE4 that County officials said, "They are going to be able to spec us into some of that stuff They said for sure we'll get the penthouses." PE4 questioned PUMPER about the amount of the commissions PE4 would receive and further indicated to PUMPER that PO1 had been asking what was going on. PUMPER suggested that PO1 should be patient. PE4 replied, "Now wait a minute. Now he's [PO1] wondering, he's wondering what his [PO1's] . . . I don't want to. . . ." PUMPER interrupted, "I understand." PE4 said, "Yeah, yeah, yeah, yeah, yeah." PUMPER told PE4, "I will talk to you about that on Tuesday, but yeah, we gotta get that s--t lined up." PE4 responded, "Now listen, it isn't that he [PO1] is asking for it. He [PO1] wants to know what it is [laughs]." PUMPER told PE4 that they should meet Tuesday and "map that out."

On or about March 31, 2008, PO1 had a conversation with PUMPER in which PUMPER asked PO1 what he was doing. PO1 replied in a jocular manner, "Oh what the f--k, I'm doin' nothing, I'm trying to make calls, make a living, help my friends make more money than they already got." Later in the conversation, PO1 told PUMPER that PO1 was trying to arrange a meeting for the next day at Delmonico's Restaurant with the architectural and design services contractor ("the architect") for the JJC.

On or about April 1, 2008, PUMPER, PO1 and the architect met and PO1 promoted Green-Source to the architect.

On or about April 1, 2008, the architect told PUMPER that the architect would work with the Green-Source design team in an effort to use Green-Source products for the JJC.

County Loans for the Green-Source Building

On or about January 8, 2008, Kelley told a DAS executive, "Ivanhoe is on the agenda for another \$200,000."

On or about January 8, 2008, PO1 performed an official act leading to the County Commissioners authorizing the County Department of Development to issue to "1170 Ivanhoe, LLC for various projects, located at 1170 Ivanhoe Road, Cleveland [the Green-Source building]" loans "a) in the amount not-to-exceed \$200,000 for a Brownfield Redevelopment Fund Project, b) in the amount not-to-exceed \$800,000 for a Commercial Redevelopment Fund Project."

PO1's Recommendation of DAS to Business 5

On or about January 4, 2008, PUMPER and BE7 had a conversation in which PUMPER said, "I was just talking to [PO1] the other day and we wanted to grab some lunch with you or dinner and wanted to see how your schedule was coming up next week and, so I can coordinate that with him . . . just you know, with the County stuff and you know, just he just wants to break a little bread with you a little bit."

PUMPER Divorce

In about mid-February 2008, PUMPER had a conversation with PE4 in which PUMPER asked PE4 to speak to PO1 on his behalf. PUMPER explained that he needed PO1 to contact the head of a County agency to push through a re-investigation related to PUMPER'S divorce.

In or about mid-February 2008, PO1, in his official capacity, called the head of the County agency on PUMPER'S behalf.

DAS Lawsuit

In or about April 2008, PUMPER, without the knowledge of DAS's attorneys, asked PO1 to assist him in expediting resolution of a lawsuit pending before PO4 in which DAS was a party.

On or about April 22, 2008, PO1 and PUMPER had a conversation in which they made plans to meet later in the day, and PO1 stated he had a "nice talk with [PO4]" and would let PUMPER know what was "going on with that."

On or about April 28, 2008, PO1 and PUMPER had a conversation in which PO1 told PUMPER that PO4's bailiff would be calling PUMPER to discuss the "sub-contractor" issue in the case and to get the particulars to PO4's staff attorney "to try to get things worked out for you." PO1 said he had told the bailiff that he thought "the other issue I said is ok, but if it's not, when he calls you, you can talk to him about that, too. . . . Let me know what's shaking after you talk to him, if there's something more we need to do or I need to talk to somebody you know what I mean after you get the conversation and the opinion back."

On or about April 28, 2008, PO4 had a private telephone conversation with PUMPER in which PUMPER and PO4 discussed the status of the case and PO4 agreed to schedule a settlement conference.

On or about April 28, 2008, PUMPER told a relative who also had an interest in DAS, that he had "talked to [PO4]" and thought he had it all worked out.

On or about May 2, 2008, PO4 held a telephonic settlement conference and negotiated a resolution to the lawsuit.

On or about May 2, 2008, after the settlement conference, PO4 and PUMPER had a private telephone conversation in which PO4 said, "I know it's more than you wanted to pay but I hope you can live with it." PUMPER replied, "You know what, I mean we're going to spend another 20,000, 30,000 getting this thing done anyhow." PO4 stated, "I was trying to get it out at 175 [\$175,000.00], but I just couldn't get it done." PUMPER replied, "Yeah, that's okay. Listen, hey, you did a great job for me, so, um, appreciate that." Later in the call, PO4 stated that she would see PUMPER soon, and PUMPER replied, "Next fund raiser."

Primarily Related to Count 2

The City of Cleveland Building and Housing Department ("CBHD") was a government agency, as that term is defined in Title 18, United States Code, Section 666(d)(2), that received benefits in excess of \$10,000, during each of the calendar years 2006, 2007 and 2008, under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance and other form of Federal assistance. CBHD administered and enforced the Cleveland building, housing and zoning codes as well as the national electrical code and the State of Ohio building, plumbing, and elevator codes. CBHD registered building contractors, inspected all new and major rehabilitation construction and provided nuisance abatement to condemned properties. CBHD supervised and managed the Code Enforcement, Construction Permitting and Records Administration divisions. The mission was to ensure that all existing and new structures in the City of Cleveland were maintained and constructed in a safe and habitable manner through enforcement of the building and zoning codes, pursuant to the review of plans, issuance of permits and inspection of property.

Bobby G. Cuevas, an agent of CBHD, was a building inspector responsible for inspecting structural work on commercial and residential construction projects within the City of Cleveland to ensure compliance with the City of Cleveland's building and zoning codes.

From a date substantially prior to May 23, 2008 through the date of the filing of the Information, the Federal Bureau of Investigation ("FBI"), Internal Revenue Service ("IRS") and the U.S. Attorney's Office in the Northern District of Ohio and a federal grand jury in the Northern District of Ohio were investigating, among other things, whether individuals and private companies had provided things of value, including home improvements, to PO1 in exchange for PO1's promise to perform official acts.

On or about May 23, 2008, FBI agents interviewed PUMPER about bribing Cuevas and sought his cooperation in an investigation of municipal public corruption. Although the interviewing agents did not mention the County or any County official, PUMPER volunteered, "I know you guys are thinking of PO1 and PO2 and them."

On or about the morning of May 26, 2008, and in furtherance of the investigation described above, an Assistant United States Attorney in the Northern District of Ohio informed PUMPER's former attorney that a grand jury subpoena would be forthcoming requiring DAS and PUMPER to produce documents.

On or about May 29, 2008, and in furtherance of the investigation described above, the United States served a grand jury subpoena on DAS requiring production of "all documents reflecting any financial relationship between DAS and any public official" and also served a grand jury subpoena on PUMPER requiring production of "all documents reflecting any financial relationship between DAS and any public official."

The Obstruction

Beginning on or about May 23, 2008, and continuing until on or about October 10, 2008, in the Northern District of Ohio, Eastern Division PUMPER and others did willfully and knowingly conspire, combine, confederate and agree together and with each other and with other

persons known and unknown to the United States Attorney, to commit offenses against the United States by knowingly falsifying documents with the intent to impede, obstruct and influence the investigation of a matter within the jurisdiction of an agency of the United States in violation of Title 18, United States Code, Section 1519.

OBJECT OF THE CONSPIRACY

The object of the conspiracy was to obstruct the federal investigation of PO1 abusing his official position by receiving things of value from PUMPER with the intent to be influenced and rewarded for performing official acts.

MANNER AND MEANS OF THE CONSPIRACY

It was a part of the conspiracy that PUMPER created a Construction Agreement and an invoice to conceal the fact that DAS had performed work on PO1's residence for which PO1 had not paid.

It was a further part of the conspiracy that beginning on or about May 23, 2008, and only after PO1 became aware of the investigation, PO1 made the first in a series of small payments for the work DAS performed in 2002, 2004, 2005 and 2007, to make it appear that PO1 did not intend at the time the work was done to be influenced and rewarded in his official position by PUMPER.

It was a further part of the conspiracy that PO1 and PUMPER planned to explain the fact that PO1 had not paid for any of the work DAS had performed on his residence by falsely claiming that DAS had not yet completed the work.

OVERT ACTS

In furtherance of the conspiracy, and to effect the objects thereof, PUMPER, PO1 and others committed the following overt acts in the Northern District of Ohio:

On or about May 23, 2008, PUMPER and a friend agreed that the friend would notify PO1 and others that PUMPER had been confronted on that date by FBI agents investigating PUMPER'S bribery of Cuevas.

On or about May 23, 2008, PO1 caused a personal check on his bank account to be written payable to DAS in the amount of \$600.

On or about May 25, 2008, PUMPER created a fictitious Construction Agreement purporting to reflect a verbal agreement of October 10, 2005 between PO1 and DAS for work DAS performed at the PO1 residence, and arranged to have the Construction Agreement delivered to PO1 through PE4.

A few days after May 25, 2008, PE4 returned the fictitious Construction Agreement with the message that the starting date on the agreement was wrong.

On or about May 30, 2008, PUMPER caused DAS to mail an invoice to PO1 reflecting a \$13,098 charge for the large roof area and bathhouse, a \$27,225 charge for the grill area and a \$600 credit for a check DAS received drawn on PO1's bank account on or about May 28, 2008 and described above.

On or about June 5, 2008, Kelley and PUMPER had a conversation in which Kelley asked PUMPER, "How is everything going with you?" PUMPER replied, "I take care of my friends. I look out for you guys, you b----ds." Kelley asked, "I mean. . . Everything okay? Is it all fixed? Everything, you know?" PUMPER responded, "I think. . . So far . . . I mean. . . Yeah, I should be okay."

On or about June 30, 2008, PO1 caused to be delivered to DAS a check drawn on PO1's account made payable to DAS in the amount of \$723.30.

On or about October 22, 2008, PO1 caused to be delivered to DAS a check drawn on PO1's account made payable to DAS in the amount of \$4,000.

Primarily Related to Count 3

On several occasions from in or about 2005 to on or about May 23, 2008, in the Northern District of Ohio, Eastern Division, Defendant PUMPER did corruptly give, offer, and agree to give things of value; that is, cash and tickets to athletic events valued at approximately \$6,600 in total, to Cuevas, intending to influence and reward Cuevas in connection with any business, transaction, and series of transactions of CBHD involving any thing of value of \$5,000 or more; that is, building permits, occupancy permits, sign violations and other matters within the jurisdiction of CBHD relating to businesses and construction projects in which DAS and PUMPER had an interest.

Primarily Related to Count 4

Beginning well before May 23, 2008, and continuing until the date of the filing of the Information, the FBI and IRS CI, both part of the executive branch of Government of the United States, and acting within its jurisdiction, were investigating PUMPER for bribing Cuevas and others in violation of federal law.

On or about May 23, 2008, Special Agents of the FBI interviewed PUMPER in connection with the investigation.

False Statements to the FBI

On or about May 23, 2008, in the Northern District of Ohio, Eastern Division, Defendant STEVEN WAYNE PUMPER knowingly and willfully made the following material false

statement in a matter within the jurisdiction of the executive branch of the Government of the United States: that \$2,000 in cash he had handed to Cuevas on May 23, 2008 was a loan, well knowing at the time that he made the statement to Special Agents of the FBI that the cash payment had been a bribe.

Primarily Related to Count 5

From on or about May 23, 2008, to in or about December 2008, in the Northern District of Ohio, Eastern Division, Defendant STEVEN WAYNE PUMPER did corruptly endeavor to influence, obstruct and impede the due administration of justice in the investigation of PUMPER, Cuevas and other County and City of Cleveland officials in a federal grand jury in the Northern District of Ohio by the conduct described below.

It was part of the endeavor to obstruct the grand jury investigation that on or about May 23, 2008, PUMPER telephoned Cuevas to rehearse a cover story for the \$2,000 bribe PUMPER had given Cuevas earlier in the day.

It was a further part of the endeavor to obstruct the grand jury investigation that shortly after May 23, 2008, PUMPER created fictitious loan documents making it appear that he had loaned money to numerous individuals including Cuevas.

It was a further part of the endeavor to obstruct the grand jury investigation that on or about May 24, 2008, PUMPER removed the hard drive from his office computer and placed it in a dumpster. On the same date, PUMPER removed the hard drive from his home computer and threw it into Lake Erie.

It was a further part of the endeavor to obstruct the grand jury investigation that on or about June 19, 2008, PUMPER again approached Cuevas and told him that he had prepared

documentation to make it appear that the bribes PUMPER had paid Cuevas were actually loans. PUMPER also said he would provide Cuevas with the date of the purported loan.

It was a further part of the endeavor to obstruct the grand jury investigation that on or about July 18, 2008, PUMPER called Cuevas in an attempt to obtain personal information about Cuevas that he could use in support of his false statement to the FBI that the cash payments to Cuevas had been a personal loan made on the basis of his purported friendship with Cuevas.

It was a further part of the endeavor to obstruct the grand jury investigation that in or about December 2008, PUMPER, in violation of his promise not to disclose his cooperation in the investigation, disclosed to a subject of the investigation the substance of some of the questions FBI agents had asked during a proffer session and further told the subject what PUMPER had told the agents regarding the subject's conduct. PUMPER made these disclosures so that the subject would be prepared when and if he was confronted by law enforcement officials.

Primarily Related to Count 6

The Parma City School District ("PCSD") was a government agency, as that term is defined in Title 18, United States Code, Section 666(d)(2), that received benefits in excess of \$10,000 during each calendar year relevant to the Information under a federal program involving a grant, contract, subsidy, loan, guarantee, insurance and other form of federal assistance. The PCSD served the cities of Parma, Parma Heights and Seven Hills, Ohio, and its operations affected interstate commerce.

From in or about Spring 2007 to on or about October 23, 2007, in the Northern District of Ohio, Eastern Division, Defendant STEVEN WAYNE PUMPER did corruptly give, offer, and agree to give things of value to John Kevin Kelley, an agent of the PCSD intending to influence

and reward Kelley in connection with any business, transaction, and series of transactions of the PCSD involving any thing of value of \$5,000 or more.

It was part of the scheme that in or about Spring 2007, Kelley used his official position on the School Board to assist DAS in obtaining a \$96,000 construction management subcontract with the PCSD.

It was a further part of the scheme that the PCSD paid the prime contractor, which in turn paid DAS on the subcontract, in installments from on or about July 24, 2007 to on or about October 23, 2007.

It was a further part of the scheme that in or about Summer or Fall 2007, PUMPER gave Kelley approximately \$5,000 or \$6,000 in cash.

It was a further part of the scheme that on or about September 14, 2007, PUMPER caused DAS to issue a \$6,000 check to the Cuyahoga County Democratic Party which he knew would be earmarked for Kelley's school board campaign.

The DAS subcontract generated a gross profit for DAS of at least \$15,000.

Primarily Related to Count 7

At all times material herein, Public Official 5 ("PO5") was an elected member of a suburban school district board in Cuyahoga County. In that capacity, she served as an agent of the school district and had the power to influence the expenditure of school funds for contracts.

The school district was a government agency, as that term is defined in Title 18, United States Code, Section 666(d)(2), that received benefits in excess of \$10,000, during each of the calendar years material herein under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance and other form of Federal assistance.

PO5 Bribery Scheme

Beginning in or about October 2003 and continuing through in or about December 2005, in the Northern District of Ohio, Eastern Division, Defendant STEVEN WAYNE PUMPER did corruptly give, offer, and agree to give things of value to PO5; that is, free construction work on her house, and on the houses of two of her relatives, all three projects valued at approximately \$20,000 in total, intending to influence and reward PO5 in connection with any business, transaction, and series of transactions of the school district involving any thing of value of \$5,000 or more; that is, approximately 20 school district contracts with DAS valued at approximately \$458,600 in total, which contracts generated approximately \$117,000 in gross profits for DAS.

Primarily Related to Count 8

From on or about June 25, 2004 to on or about January 11, 2008, in the Northern District of Ohio, Eastern Division, Defendant STEVEN WAYNE PUMPER, knowingly and for the purpose of evading the reporting requirements of Section 5313(a) of Title 31, United States Code, and the regulations promulgated thereunder, structured transactions; namely the cash withdrawals listed below, all said withdrawals from domestic financial institutions Northern Savings and Loan and Century Bank, and all said transactions structured while PUMPER was violating another law of the United States; that is Title 18, United States Code, Sections 371 and 666.

<u>DATE</u>	<u>AMOUNT OF CASH WITHDRAWN FROM DEBIT</u>
7/6/2004	\$8,000.00
8/3/2004	\$8,000.00
8/9/2004	\$8,000.00
9/2/2004	\$8,000.00
9/14/2004	\$8,000.00

9/30/2004	\$8,000.00
10/12/2004	\$8,000.00
10/26/2004	\$8,000.00
11/18/2004	\$8,000.00
12/9/2004	\$8,000.00
7/11/2007	\$8,000.00
7/20/2007	\$7,000.00
9/14/2007	\$4,000.00
9/21/2007	\$7,000.00
10/13/2007	\$7,000.00
12/26/2007	\$6,000.00
1/11/2008	\$4,000.00

Primarily Related to Count 9

At all times material herein, Business Executive or Employee 9 ("BE9") was an employee of Business 13 and owed a duty of loyalty to Business 13.

At all times material herein, Business 13 was a company with an office in the Greater Cleveland area.

At all times material herein, Business 13 prohibited its employees from using Business 13 contractors to perform work on their personal residences.

The Scheme

Beginning in or about 1990 and continuing to on or about May 23, 2008, in the Northern District of Ohio, Eastern Division and elsewhere, Defendant STEVEN WAYNE PUMPER, and others known and unknown to the United States Attorney, devised and intended to devise a scheme and artifice to defraud Business 13 of money and property and of the intangible right to

the honest services of BE9 and others, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, to cause matters to be placed in any post office and authorized depository for mail matter to be sent and delivered by the United States Postal Service, in violation of Title 18, United States Code, Sections 1341 and 1346.

It was part of the scheme to defraud that:

PUMPER provided things of value to BE9 and other Business 13 officials in exchange for BE9 and other Business 13 officials using their influence to award Business 13 contracts to DAS. These things of value included several payments of cash to BE9 in amounts of approximately \$2,000 each for a total of approximately \$5,000 to \$7,000, two trips to Las Vegas, several gift cards valued at \$2,000 each, two to four tickets to each of approximately eleven professional sporting events and various repairs to BE9's residence and the residences of other Business 13 employees and their families.

PUMPER caused DAS not to bill BE9 and the other Business 13 employees for the work performed on their residences and those of their families, or billed them at a significant discount.

PUMPER inflated DAS invoices to Business 13 to compensate DAS for some of the costs incurred by DAS in giving things of value to BE9 and other Business 13 employees.

BE9 and the other Business 13 employees described above concealed from Business 13 the fact that PUMPER had provided things of value to them and concealed the fact that DAS was overbilling Business 13.

Beginning in or about December 2007 or January 2008, PUMPER and BE9 discussed DAS contracting with Business 13 to renovate a Business 13 warehouse in San Jose, California.

On or about January 3, 2008, BE9 and PUMPER had a conversation about future work for DAS after which BE9 said it was "very seldom" that he asked for a ticket to a basketball game. BE9 went on to request four tickets to a Cleveland Cavaliers game against Phoenix. PUMPER agreed to provide them, stating that he had "a box."

In another conversation about the California warehouse job, BE9 solicited, and PUMPER agreed to pay, a \$25,000 kickback. PUMPER never made the payment because Business 13 reduced the scope of work to approximately \$350,000.

In or about February 2008, PUMPER and BE9 discussed DAS renovating Business 13's home office in Cleveland at an estimated cost of \$1,640,000. BE9 solicited and PUMPER agreed to pay a \$50,000 kickback in exchange for the work. On or about February 12, 2008, BE9 instructed PUMPER to "send that over" and "mark that up I'd say . . . 50 [\$50,000], ok?" They discussed the budget for the project further, and PUMPER said, "You'll still have a little bit of room to play." BE9 responded, "Consider the fact that I just want to hit a bogey of 50 grand, ok?" PUMPER responded, "That will be fine." Business 13 did not undertake the project discussed above, so PUMPER did not pay the promised kickback to BE9.

On or about April 9, 2008, PUMPER and BE9 had a conversation in which BE9 said, "I expect DAS as I have expressed to others, that I can control DAS, because you know they aren't going to bite the hand that's feeding them . . . Or the other one kill the goose that laid the golden egg. . . ."

From in or about 2003 through on or about May 23, 2008, Business 13 paid DAS approximately \$9,104,479 on various contracts. As a result of the scheme described above, DAS generated profits on those contracts of approximately \$1,700,000, \$491,000 of which was excess profit.

Mailings

On a regular basis and on numerous occasions from in or about 2003 to on or about May 23, 2008, PUMPER and BE9 executed and attempted to execute the scheme and artifice set forth above by causing the following matters and things to be mailed and delivered by the United States Postal Service according to the directions thereon within the Northern District of Ohio, Eastern Division: invoices from DAS to Business 13 and checks in payment of those invoices from Business 13 to DAS.